

**FINDINGS AND DETERMINATION OF THE COMMISSIONER
PURSUANT TO [IC 13-14-9-8](#) AND DRAFT RULE
LSA Document #22-231**

ORGANIC SOLVENT DEGREASING OPERATIONS CORRECTION**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on an amendment to [326 IAC 8-3-1](#)(a)(1) concerning an exemption from applicability of the rule based on an emission level of fewer than fifteen (15) pounds per day of volatile organic compounds (VOC) from organic solvent degreasing operations. IDEM is soliciting written comment on the draft rule language and will schedule a public hearing before the Environmental Rules Board (board) for consideration of adoption of these rules.

CITATIONS AFFECTED: [326 IAC 8-3-1](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

STATUTORY REQUIREMENTS

[IC 13-14-9-8](#) recognizes that, under certain circumstances, it may be appropriate to reduce the number of public comment periods and public hearings usually provided for under the [IC 13-14-9](#) environmental rulemaking process. In cases where the commissioner determines that there is no reasonably anticipated benefit from a second public comment period and first public hearing to either the environment or persons regulated or otherwise affected by the draft rule, IDEM may forgo these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for adoption. Two opportunities for public comment (with this notice and at the public hearing prior to adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by [IC 13-14-9-8](#), the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for adoption and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-8](#).

The statute provides for this shortened rulemaking process if the commissioner determines that:

(1) the rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) an amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in [IC 13-14-9-7](#)(a)(2) from:

(A) exposing the rule to diverse public comment under [IC 13-14-9-3](#) or [IC 13-14-9-4](#);

(B) affording interested or affected parties the opportunity to be heard under [IC 13-14-9-3](#) or [IC 13-14-9-4](#); and

(C) affording interested or affected parties the opportunity to develop evidence in the record collected under [IC 13-14-9-3](#) and [IC 13-14-9-4](#).

BACKGROUND

Under the final rule adopted on February 10, 2021, by the board in rulemaking LSA Document #18-542 concerning a cold cleaning degreasing alternative, the text "with the potential to emit VOC emissions of greater than or equal to fifteen (15) pounds per day" was added to [326 IAC 8-3-1](#)(a)(1) to create an exemption for degreasers that have the potential to emit fewer than 15 pounds per day of volatile organic compounds (VOC). The text was added to be consistent with similar language in [326 IAC 8-1-1](#). However, the United States Environmental Protection Agency (U.S. EPA) has stated that this type of exemption is not appropriate for degreasing, for which typical exemptions are based on use, such as medical cleaning, or surface area size of the equipment, and would lead to some units no longer being regulated. Therefore, U.S. EPA has indicated that the exemption added in [326 IAC 8-3-1](#)(a)(1) is not a change that can be approved.

When this rule amendment becomes effective, it will return [326 IAC 8-3-1](#)(a)(1) to its meaning before LSA Document #18-542 without the exemption for degreasers that have the potential to emit fewer than 15 pounds per day of VOC and will provide consistency with the Indiana State Implementation Plan (SIP). The amendment is

without substantive effect on the existing rule because VOC emitting sources will still be able to take an exemption based on the fewer than 15 pounds per day emission limit under [326 IAC 8-1-1](#), though the limitation would need to be included in the emission source's permit.

[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. This draft rule imposes no restrictions or requirements because it is a technical amendment with no substantive effect on an existing Indiana rule.

Potential Fiscal Impact

The final rule language of LSA Document #18-542 that added an exemption at [326 IAC 8-3-1\(a\)\(1\)](#) to allow up to 15 pounds per day of VOC from an organic solvent degreasing operation has been effective since June 10, 2021. The short amount of time since the exemption has been in effect has limited the time when emitting sources could use the exemption. Sources would be unlikely to use the exemption because of the risk of relying on a SIP noncompliant exemption, which is the status of the exemption at [326 IAC 8-3-1\(a\)\(1\)](#) in the final rule language of LSA Document #18-542, since U.S. EPA has not approved the rule changes made to [326 IAC 8-3-1](#) in LSA Document #18-542.

Public Participation and Work Group Information

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel at mstevens@idem.in.gov, (317) 232-8536 or (800) 451-6027 (in Indiana).

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on CTAP and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jennifer Collins
IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison
IGCN 1316
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-9730 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Emily Totten
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 402-3062
etotten@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Drake Abramson
IDEM Small Business Assistance Program Ombudsman/Business, Agricultural, and Legislative Liaison
IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8921 or (800) 451-6027
dabramso@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared findings regarding rulemaking on an amendment to [326 IAC 8-3-1\(a\)\(1\)](#) to delete the exemption for degreasers that have the potential to emit fewer than 15 pounds per day of VOC, which will provide consistency with the Indiana SIP. These findings are prepared under [IC 13-14-9-8](#) and are as follows:

- (1) This rule is a technical amendment with no substantive effect on an existing Indiana rule.
- (2) In the absence of this rulemaking to delete the exemption text from [326 IAC 8-3-1\(a\)\(1\)](#) to allow the emission of up to 15 pounds per day of VOC from an organic solvent degreasing operation, U.S. EPA will not approve the changes made to [326 IAC 8-3-1](#) in the final rule of LSA Document #18-542, which added the exemption.
- (3) The Indiana SIP does not allow sources to have an exemption based on the potential to emit fewer than 15 pounds per day of VOC as was added to [326 IAC 8-3-1\(a\)\(1\)](#) in the final rule of LSA Document #18-542. This rulemaking to remove the exemption from [326 IAC 8-3-1\(a\)\(1\)](#) will maintain consistency with the Indiana SIP.
- (4) The environment and persons regulated or otherwise affected by the draft rule will benefit from prompt adoption of this rule because the approval by U.S. EPA of the final rule in LSA Document #18-542 will keep [326 IAC 8-3-1](#) consistent with the Indiana SIP.
- (5) I have determined that, under the specific circumstances pertaining to this rule, there would be no reasonably anticipated benefit to the environment, to persons regulated or otherwise affected by the draft rule from the first or second written comment period under [IC 13-14-9-3](#) or [IC 13-14-9-4](#), or from the first public hearing under [IC 13-14-9-5\(a\)\(1\)](#).
- (6) The draft rule is hereby incorporated into these findings.

Brian Rockensuess
Commissioner
Indiana Department of Environmental Management

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:
LSA Document #22-231 Organic Solvent Degreasing Operations Correction
MaryAnn Stevens
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251
- (2) By electronic mail to mstevens@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

Contact Karla Kindrick at kkindric@idem.in.gov or (317) 232-8922 if another method of submitting comments within the comment period is desired. Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than August 12, 2022.

Additional information regarding this action may be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, at mstevens@idem.in.gov, (317) 232-8635 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. [326 IAC 8-3-1](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 8-3-1](#) Applicability and exemptions

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-17-3](#)

Sec. 1. (a) This rule applies to the following:

- (1) ~~Persons~~ **A person** owning or operating a degreaser using solvents that contain one (1) or more volatile organic compounds (VOC). ~~with the potential to emit VOC emissions of greater than or equal to fifteen (15)~~

~~pounds per day.~~

(2) ~~Any~~ **A** person who:

(A) sells;

(B) offers for sale;

(C) uses; or

(D) manufactures;

solvent that contains one (1) or more VOC for use in cold cleaner degreasers.

(b) For purposes of this section, "electronic components" means all components of an electronic assembly, including the following:

(1) Circuit board assemblies.

(2) Printed wire assemblies.

(3) Printed circuit boards.

(4) Soldered joints.

(5) Ground wires.

(6) Bus bars.

(7) Any other associated electronic component manufacturing equipment.

(c) Unless exempted in subsection (d), this rule applies to ~~persons~~ **a person** owning or operating degreasers as follows:

(1) Sections 2(a), 3(a), and 4(a) of this rule apply to the following degreasers:

(A) Degreasers constructed on or before January 1, 1980, that are located:

(i) in **the counties of:**

(AA) Clark;

(BB) Elkhart;

(CC) Floyd;

(DD) Lake;

(EE) Marion;

(FF) Porter; or

(GG) St. Joseph; ~~County~~; and

(ii) at sources that have potential emissions of ninety and seven-tenths (90.7) megagrams (one hundred (100) tons) or greater per year of VOC.

(B) Degreasers constructed after January 1, 1980, located anywhere in the state.

(2) Sections 2 through 4 of this rule apply to the following degreasers:

(A) Cold cleaner degreasers without remote solvent reservoirs that:

(i) are located in **the counties of:**

(AA) Clark;

(BB) Elkhart;

(CC) Floyd;

(DD) Lake;

(EE) Marion;

(FF) Porter; or

(GG) St. Joseph; ~~County~~; or

(ii) were constructed after July 1, 1990, and located anywhere in the state.

(B) Open top vapor degreasers with an air-to-solvent interface of one (1) square meter (ten and eight-tenths (10.8) square feet) or greater that:

(i) are located in Clark, Elkhart, Floyd, Lake, Marion, Porter, or St. Joseph County; or

(ii) were constructed after July 1, 1990, and located anywhere in the state.

(C) Conveyorized degreasers with an air-to-solvent interface of two (2) square meters (twenty-one and six-tenths (21.6) square feet) or greater that:

(i) are located in **the counties of:**

(AA) Clark;

(BB) Elkhart;

(CC) Floyd;

(DD) Lake;

(EE) Marion;

(FF) Porter; or

(GG) St. Joseph; ~~County~~; or

(ii) were constructed after July 1, 1990, and located anywhere in the state.

(3) Section 8 of this rule applies to ~~any~~ **a** person who sells, offers for sale, uses, or manufactures solvent for

use in cold cleaner degreasers as follows:

(A) Before January 1, 2015, in the following counties:

- (i) Clark.
- (ii) Floyd.
- (iii) Lake.
- (iv) Porter.

(B) On ~~and~~ or after January 1, 2015, anywhere in the state.

(d) ~~The following~~ Degreasers and solvent material uses are exempt from this rule **as follows**:

(1) Sections 2 through 4 of this rule do not apply to the following solvent degreasing operations:

(A) Degreasers that are required to comply with and are operated in compliance with [326 IAC 20-6-1](#) that incorporates by reference 40 CFR 63, Subpart T*, National Emissions Standards for Hazardous Air Pollutants for Halogenated Solvent Cleaning.

(B) Degreasers that use solvents that contain less than one percent (1%) of VOC by weight.

(2) Section 8 of this rule does not apply to the following:

(A) Solvents intended to be used in degreasers to clean electronic components.

(B) Solvents used in degreasers that are:

(i) required to comply with and are operated in compliance with the requirements of [326 IAC 20-15-1](#), which incorporates by reference 40 CFR 63, Subpart GG*, National Emission Standards for Aerospace Manufacturing and Rework Facilities; and

(ii) ~~not~~ located in **counties other than** Clark, Floyd, Lake, or Porter. ~~County~~.

(C) Solvents containing less than one percent (1%) VOC by weight used in degreasers that are ~~not~~ located in **counties other than** Clark, Floyd, Lake, or Porter. ~~County~~.

(3) Sections 2 and 8 of this rule do not apply to spray gun cleaners, provided that the following conditions are met:

(A) The spray gun cleaner is not used to clean parts.

(B) The spray gun cleaner is a flushing and cleaning system that:

(i) has solvent pumped through or on the spray gun and spray gun components to flush out and clean off remaining coating;

(ii) has solvent recirculated within the cleaner and any associated solvent storage tank; or

(iii) uses nonatomized spray for flushing and cleaning lines and spray guns that are:

(AA) connected to a container of solvent; and

(BB) sprayed, are drained, or flow into a container that is covered or closed when not in use.

(C) The spray gun and spray gun components are not immersed in solvent.

(e) When a limit is expressed in metric units and the English units are provided, the owner or operator has the option of using either metric or English units to demonstrate compliance with the rule.

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.

(Air Pollution Control Division; [326 IAC 8-3-1](#); filed Mar 10, 1988, 1:20 p.m.: 11 IR 2537; filed Apr 18, 1990, 4:55 p.m.: 13 IR 1679; filed Apr 27, 1999, 9:06 a.m.: 22 IR 2854; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Jan 30, 2013, 12:33 p.m.: [20130227-IR-326070352FRA](#); filed May 11, 2021, 11:22 a.m.: [20210609-IR-326180542FRA](#))

[Notice of Public Hearing](#)

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